

Message Text

CONFIDENTIAL

PAGE 01 STOCKH 00565 111354Z

47

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INFO USMISSION GENEVA

C O N F I D E N T I A L STOCKHOLM 565

E.O. 11652: GDS

TAGS: PFOR, SW

SUBJECT: GENEVA CONFERENCE ON LAW OF WAR

REF: STOCKHOLM 555

FOR ALDRICH (L)

BELOW IS EMBASSY CONDENSATION OF "WORKING PAPER" DRAFTED BY DR. HANS BILX ON SUBJECT OF PROCEDURAL ASPECTS OF SPECIFIC COVENTIONAL WEAPONS ISSUE AT GENEVA (SEE REFTEL). IT IS AN INTERNAL GOS PAPER, NOT YET APPROVED BY CABINET, AND SHOULD BE TREATED AS CONFIDENTIAL. FULL TEXT BEING POUCHED.

TITLE: A PLENARY COMMITTEE FOR CONSIDERATION OF QUESTION OF PROHIBITION OR RESTRICTION OF USE OF SPECIFIC CONVENTIONAL WEAPONS.

1. (HERE IS QUOTED ARTICLES 33/34 OF ICRC DRAFT PROTOCOL I)...IT MUST BE WITHIN THE COMPETENCE OF THE CONFERENCE TO DISCUSS WHICH WEAPONS, PROJECTILES, SUBSTANCES, METHODS AND MEANS FALL UNDER THESE PROVISIONS
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 STOCKH 00565 111354Z

AND ADOPT CONCRETE PROVISIONS THEREON.

2. AN INCREASING NUMBER OF GOVERNMENTS HAVE COME TO CONCLUSION THAT IT DESIRABLE FOR CONFERENCE TO COME TO GRIPS WITH QUESTION OF PROHIBITION OR RESTRICTION OF USE OF SPECIFIC CONVENTIONAL WEAPONS AND TO BRING ABOUT RULES ON SUCH WEAPONS. SEVERAL OF THESE GOVERNMENTS WOULD PREFER THAT THE RULES WHICH WOULD BE WORKED OUT AND ADOPTED IN ADDITION TO THE GENERAL ONES PROPOSED BY THE ICRC--AND CITED ABOVE--SHOULD BE LAID DOWN IN AN AGREEMENT SEPARATE FROM THE TWO PROTOCOLS. THE SWEDISH DELEGATION IS NOT AVERSE TO SUCH A SOLUTION AND DOES NOT INSIST THAT THE ADDITIONAL RULES SHOULD NECESSARILY BE ADDED DIRECTLY TO ARTICLES 33 AND 34. HOWEVER, IN ITS VIEW, THIS QUESTION ALTHOUGH IMPORTANT IS RAISED SOMEWHAT PREMATURELY. THE FIRST TASK IS TO ADDRESS ONESELF TO THE QUESTION OF THE SUBSTANCE OF RULES TO BE ADOPTED. WHERE AND HOW THESE RULES SHOULD BE EMBODIED IS A SECONDARY QUESTION.

3. THE XXIIND RED CROSS CONFERENCE AT TEHERAN ADOPTED A RESOLUTION IN NOVEMBER 1973 READING IN PART AS FOLLOWS: (QUOTES PART ON CONVENTIONAL WEAPONS).

THE GENERAL ASSEMBLY OF THE UNITED NATIONS ADOPTED A RESOLUTION (3076(XXVII) ON THE SAME MATTER, READING IN PART AS FOLLOWS: (QUOTES RES. 3076(XXVII)).

4. ALTHOUGH THESE OPERATIVE PARAGRAPHS DIFFER SOMEWHAT, DIFFERENCE IS NOT VERY SUBSTANTIAL AND IT SHOULD BE POSSIBLE FOR DIPLOMATIC CONVERENCE TO RECONCILE THE TWO REQUESTS AND COMPLY WITH THEM.

A) ALTHOUGH ICRC HAS NOT SUBMITTED ANY DRAFT PROPOSALS AND COMMENTS ON THIS MATTER, THERE IS IN FACT MORE OFFICIAL MATERIAL FOR DISCUSSION ON IT BY THE CONFERENCE THAN FOR MATTERS ON WHICH ICRC PROPOSALS HAVE BEEN DRAFTED. IN PARTICULAR REPORT BY THE ICRC ON WEAPONS THAT MAY CAUSE UNNECESSARY SUFFERING OR HAVE INDISCRIMINATE EFFECTS (1973); REPORT BY UNSYG ON NAPALM AND OTHER INCENDIARY WEAPONS (1972) AND OFFICIAL GOVERNMENT COMMENTS THEREON (1973); UNSYG REPORT ON EXISTING CONFIDENTIAL

CONFIDENTIAL

PAGE 03 STOCKH 00565 111354Z

LEGAL PROHIBITION OF THE USE OF SPECIFIC WEAPONS (1973); AND PRELIMINARY REPORT BY SIPRI ON INCENDIARY WEAPONS AND THE STUDY BY A SWEDISH WORKING GROUP ON CONVENTIONAL WEAPONS, THEIR DEPLOYMENT AND EFFECTS FROM A HUMANITARIAN ASPECT (1973) MAY BE MENTIONED.

CONCRETE PROPOSALS FOR RULES HAVE BEEN SUBMITTED IT ICRC CONFERENCES OF GOVERNMENT EXPERTS AND PROPOSALS BY GOVERNMENTS ARE ANTICIPATED AT THE CONFERENCE.

THERE IS EVIDENTLY NO ASSURANCE THAT THEY WILL PROVE UNCONTROVERSIAL BUT IN THIS REGARD THEY HARDLY DIFFER FROM MANY PROPOSALS WHICH ARE SUBMITTED BY THE ICRC.

B) BOTH RED CROSS CONFERENCE AND THE UNGA--IN FULL AWARENESS OF THE EXTENSIVE MATERIAL FOR DISCUSSION-- HAVE EVIDENTLY WANTED DIPLOMATIC CONFERENCE TO EXAMINE SUBSTANCE OF PROBLEM OF QUESTION OF PROHIBITION ETC. AT SAME TIME THE TWO RESOLUTIONS EXPRESS WISH THAT THIS EXAMINATION SHOULD BE WITHOUT PREJUDICE TO WORK ON DRAFTS SUBMITTED BY ICRC.

C) AN ADEQUATE SOLUTION TO THIS PROCEDURAL QUESTION HAS BEEN FOUND BY MANY TO BE THE ESTABLISHMENT AT CONFERENCE OF A FOURTH PLENARY COMMITTEE DEVOTED TO MATTER. SUCH COMMITTEE SHOULD BEGIN TO FUNCTION SIMULTANEOUSLY WITH THE OTHER THREE. SINCE IT IS DESIRABLE THAT COMMITTEES DO NOT MEET EVERY MORNING AND AFTERNOON OF EVERY DAY, IT WILL BE POSSIBLE TO FIT FOUR PLENARY COMMITTEES INTO THREE PLENARY ROOMS. FOURTH COMMITTEE SHOULD EVIDENTLY BE SET UP FOR DURATION OF DIPLOMATIC CONFERENCE, WHETHER IT BE ONE OR, AS IS WIDELY ASSUMED, MORE THAN ONE SESSION. IT SHOULD BE SUBJECTED TO SAME RULES OF PROCEDURE AS OTHER COMMITTEES AND HAVE SUFFICIENT TIME FOR ITS DELIBERATIONS.

D)FOURTH COMMITTEE SHOULD EXAMINE SUBSTANCE OF SPECIFIC PROPOSALS SUBMITTED TO IT BEFORE OR DURING CONFERENCE. IT IS ASSUMED THAT IT WILL NOT BE READY TO ADOPT ANY RULES ON MATTER DURING FIRST SESSION OF DIPLOMATIC CONFERENCE AND THAT A CONFERENCE OF GOVERNMENT EXPERTS TO BE CONVENED BY THE ICRC IN 1974 WILL STUDY IN DEPTH VARIOUS QUESTIONS ARISING IN MATTER AND CONFIDENTIAL

CONFIDENTIAL

PAGE 04 STOCKH 00565 111354Z

ADOPT A REPORT WHICH WILL ASSIST THE EXPECTED SECOND SESSION OF THE CONFERENCE IN 1975.

E) IN LIGHT OF ITS EXAMINATION OF THE QUESTION OF PROHIBITION ETC., THE FOURTH COMMITTEE OF THE DIPLOMATIC CONFERENCE'S 1974 SESSION SHOULD SEEK TO ADOPT RECOMMENDATIONS TO THE ICRC CONFERENCE OF GOVERNMENT EXPERTS-- WHICH IS TO MEET LATER DURING 1974-- AS TO QUESTIONS WHICH NEED TO BE FURTHER PENETRATED BY EXPERTS FROM A LEGAL, MEDICAL OR MILITARY POINT OF VIEW, SO AS TO ENSURE THAT REPORT OF CONFERENCE OF GOVERNMENT EXPERTS WILL ASSIST GOVERNMENTS IN THEIR FURTHER DELIBERATIONS AT THE EXPECTED SECOND SESSION OF DIPLOMATIC CONFERENCE IN 1975.
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